

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

For

House Bill 4583

BY DELEGATE CRISS

[Passed March 9, 2022; in effect ninety days from passage.]

1 AN ACT to amend and reenact §39B-1-106 of the Code of West Virginia, 1931, as amended,
2 relating to declaring that neither being detained, including being incarcerated in a penal
3 system, nor being outside the United States and unable to return, creates an inference of
4 incapacity to execute a power of attorney.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS.

§39B-1-106. Validity of power of attorney.

1 (a) A power of attorney executed in this state on or after the effective date of this act is
2 valid if its execution complies with §39B-1-105 of this code.

3 (b) A power of attorney executed in this state before the effective date of this act is valid if
4 its execution complied with the law of this state that existed at the time of execution.

5 (c) A power of attorney executed other than in this state is valid in this state if, when the
6 power of attorney was executed, the execution complied with:

7 (1) The law of the jurisdiction that determines the meaning and effect of the power of
8 attorney pursuant to §39B-1-107 of this code; or

9 (2) The requirements for a military power of attorney pursuant to 10 U. S. C. §1044b.

10 (d) Except as otherwise provided by statute other than this act, a photocopy or
11 electronically transmitted copy of an original power of attorney has the same effect as the original.

12 (e) Notwithstanding the provisions of §39B-1-102 of this code, the fact that a person is
13 either detained, including being incarcerated in a penal system, or is outside the United States
14 and unable to return, does not create an inference that the person lacks the capacity to execute
15 a power of attorney.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2022.

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Governor